



Melbourne College of Divinity

Academic Conduct Policy

D – Harassment Policy and Procedures

Contents

D1 Harassment and why does it matter?

- 1.1 Introduction
- 1.2 Terms used in this document
 - 1.2.1 Harassment
 - 1.2.2 Sexual Discrimination
 - 1.2.3 Disability Discrimination
 - 1.2.4 Racial Discrimination
 - 1.2.5 Discriminatory Harassment
 - 1.2.6 Hostile Environment
 - 1.2.7 Complainant and respondent
 - 1.2.8 Conciliation
- 1.3 Key issues related to harassment
 - 1.3.1 Confidentiality
 - 1.3.2 Awareness
 - 1.3.3 Natural Justice
- 1.4 Peer Contact Officers (PCOs)
 - 1.4.1 The concept of a ‘peer’ contact officer
 - 1.4.2 Responsibilities of a PCO
 - 1.4.3 Administrative Responsibilities of the PCO

D2 Procedures for responding to a complaint

- 2.1 Contact persons
- 2.2 Initial procedures: non-formal mediation
 - 2.2.1 First contact
 - 2.2.2 PCO responsibilities
 - 2.2.3 PCO Team Leader responsibilities
- 2.3 Formal conciliation

D3 Current Peer Contact Officers

D4 Grievance Procedures Summary Table

D1 Definition and implications of harassment

1.1 Introduction

The MCD is committed to providing a caring environment, free from all forms of harassment. Respect for the dignity of all, is a basic value of the College. All students and staff must have equal access to the benefits offered by association with the MCD. This policy and relevant procedures are designed to encourage such an atmosphere of equality and justice, and to ensure that resolution of any negative issues, is achieved as quickly as possible, with as little distress as possible.

The policy also provides an appropriate response to the State and Federal laws concerning harassment and discrimination. This policy is based on the following legislative framework

The Racial Discrimination Act (1975 -)

The Sexual Discrimination Act (1984 -)

The Human Rights and Equal Opportunity Act (1986 -)

The Privacy Act (1988 - Victoria)

The Disability Discrimination Act (1992 -)

The Work Place Relations Act (1996 - Commonwealth)

This policy is relevant to everyone associated with the MCD, including faculty, staff, and student's, visiting lecturers, research advisors, librarians and examiners. All have equal right to use this policy, and will suffer no consequent discrimination.

It is the responsibility of the College, to ensure that the Policy is used seriously and appropriately. Recourse will serve to undermine the effectiveness and promote a mistrustful environment rather than the supportive ethos for which it is destined.

1.2 Terms used in this document

For the purpose of this document the following definitions are used;

1.2.1 Harassment

The following description is designed to assist in the establishment of parameters within which persons associated with the MCD are protected from inadvertent or intentional harassment or discrimination. It is not designed to impose limits on the nature and variety of interactions enjoyed within the MCD.

Generally speaking, *any unwanted or unsolicited, intrusive or inappropriate questions or behaviour related to a person's private life can be considered to constitute harassment.* This may be in written form, and/or made by telephone or e-mail, and/or by physical means. It may be threatened or actual, and may occur on single or repeated instances.

Some examples, which may assist in understanding what is and is not acceptable, are

- 'terms of endearment' which are objectionable to the recipient
- comments relating to a person's personal life, and/or political, religious or domestic situations

- comments making assumptions, or that stereotype according to sexual, racial or cultural background
- discriminatory or offensive posters, pictures or other publications
- jokes, acts or expressed attitudes of humiliation, based on race, sex or disability
- derogatory comments about sexuality, marital status, associations, accent, disability, pregnancy, family situation, or personal values

Within all these examples there are clearly situations when such a comment is well intended and well received. Matters that may appear trivial to one member of our community can, however, be distressing to others. If behaviour is found to be objectionable there are grounds for raising the issue of harassment.

Legislation refers to specific types of harassment and discrimination, and has actual legal definitions.

1.2.2 Sexual Discrimination

Sexual Discrimination is defined in the *Sex Discrimination Act* (1984) Section 28A: Division 3 (1) for the purposes of this Division, a person sexually harasses another person (the 'person harassed') when

- (a) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed, or
- (b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed
- (c) circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated

1.2.3 Disability Discrimination

Disability Discrimination is defined in the *Disability Discrimination Act* (1992) Section 35:

- 1) For the purposes of this Act, a person ('discriminator') discriminates against another person ('aggrieved person') on the ground of a disability of the aggrieved person if, because of the aggrieved person's disability, the discriminator treats or proposes to treat the aggrieved person less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person without the disability.
- 2) For the purposes of subsection (1), circumstances in which a person treats or would treat another person with a disability are not materially different because of the fact that different accommodation or services may be required by the person with a disability.

1.2.4 Racial discrimination

Racial discrimination is defined in the *Racial Discrimination Act* (1975) Section 9:

- (1) It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.

1.2.5 Discriminatory Harassment

If the action of an individual or group towards another individual or group is perceived to be offensive, humiliating, intimidating, demeaning, insulting or intimidating, 'discriminatory harassment' can be said to have occurred.

In the context of the MCD, discriminatory harassment could include offensive comments about another person's spirituality or faith commitment. However, fair criticism of a theological perspective is not discriminatory harassment.

1.2.6 Hostile environment

A hostile environment is one in which the enjoyment or performance of an individual or group's employment or studies is negatively affected by the atmosphere allowed to exist.

At the MCD, a hospitable environment, it is important that people who do not belong to a particular faith or spiritual tradition are not negatively affected. Similarly, it is essential that the identity of all traditions and the atmosphere they generate, may be free to flourish.

1.2.7 Complainant and respondent

A person, who believes that they have been harassed or suffered discrimination, is called the complainant.

A person against whom a complaint is made is called the respondent.

1.2.8 Conciliation is the process by which an impartial third party helps to bring resolution between the complainant and respondent, involved in a harassment situation.

1.3 Key issues concerning harassment

1.3.1 Confidentiality

It is crucial for the success of this policy that the strictest code of confidentiality be observed about all issues which arise. This is equally important for both the respondent and the complainant. Any communication or discussion relating to issues arising must be made only with those whose involvement is necessary for satisfactory resolution.

- All discussion takes place privately and correspondence remains strictly private; email is strongly discouraged.
- All parties must act honestly and in good faith.
- All participants must abide by these aspects of this policy.

In the public interest, the MCD may release information that is disclosed as a result of a grievance process. This is a legal requirement, and would only occur in exceptional circumstances, as determined by the relevant legislation.

1.3.2 Awareness

For this policy to be effective, all persons associated with the MCD must be aware of the Harassment Policy and the relevant procedures.

Copies should always be available on the [Melbourne College of Divinity website](#) for any member of the community to access, including all MCD offices, and via the web. In addition, the Policy should be publicised by way of posters, handbooks and information sessions, especially during orientation activities for new students and induction programs for new staff.

Awareness reduces the instance of inadvertent harassment occurring, and also the degree and duration of harassment. Information increases the opportunity for resolution and the sense of security that can be enjoyed in the work and study environment.

1.3.3 Natural Justice

The term 'natural justice' is often used in resolution of harassment. It is usually defined as the minimum standard of fairness which is applied to a situation.

'Natural justice' generally requires that

- all decisions are made fairly and without bias
- all issues are heard and all investigations are made to determine the truth of a situation
- all participants of a dispute have the opportunity to state their case, offer evidence and put forward their defence
- all members involved in a situation are kept informed of any allegations made and the progress of the dispute situation
- all members of a dispute situation have access to appropriate representation

1.4 Peer Contact Officers (PCOs)

1.4.1 The concept of a 'peer' contact officer

Harassment, both intentional and unintentional, thrives in an environment where a victim is unable or unwilling to take steps to resolve the issue.

To raise issues of harassment and discrimination quickly and in an empathetic environment at the MCD, a number of students and staff are available as Peer Contact Officers at each RTI. Appointing PCOs who are 'peers', reduces the possibility of formal grievance procedures being implemented.

The names of PCOs for the current year are listed in the printed form of this document, available at the MCD office, at the RTIs, and on their websites.

1.4.2 Responsibilities of a PCO

The fundamental responsibility of a PCO is to act as the primary point of contact if harassment or discrimination is experienced, and then to manage the initial stage of the conciliation process.

PCOs are responsible for

- having a detailed understanding of what constitutes harassment and discrimination, and what constitutes offence under law and what may require reporting to other authorities
- publicising and promoting the MCD Harassment Policy and Procedures
- offering general information and advice concerning harassment and discrimination

If a PCO receives a complaint, further procedures apply, as outlined below:

1.4.3 Administrative Responsibilities of PCOs are as follows:

- to monitor the effectiveness of this policy and associated procedures, including any emerging harassing or discriminatory behaviour
- managing publicity and training within their RTI
- monitoring the progress of individual cases, to encourage resolution
- ensuring complete and secure documentation of each grievance at their RTI, and forwarding same to the MCD Registrar

D2 Procedures for responding to a complaint

2.1 Contact persons

Any person associated with the MCD who feels that they are or have been subject to harassment should contact any one of the following, within five (5) working days of the alleged grievance

- a Peer Contact Officer (PCO)
- the Dean or other persons in authority in the relevant RTI. Research students and supervisors should contact the MCD Dean or HREC Liaison Officer

Any person involved in a complaint may approach the Equal Opportunity Commission at any point in the proceedings.

2.2 Initial procedures: non-formal mediation

These procedures outline the preferred process and, while they should be followed as best practice, cannot be expected to cover all situations. Variations can be determined according to need, and should be discussed with the PCO.

2.2.1 First contact

If a person believes that she or he has experienced harassment or discrimination in their association with the MCD, she or he should contact a PCO to discuss the situation.

The PCO who has been contacted will assist the complainant to

- identify the issue(s) involved
- compile notes and/or gather information regarding the issues involved
- consider the preferred options for conciliation, for example
 - ◆ enable the complainant to speak directly with the respondent(s)
 - ◆ speak on the complainant's behalf with the respondent(s)
 - ◆ prepare a letter outlining the situation and offering ideas for resolution
 - ◆ take the matter directly to another level of authority

The PCO is expected to

- consider the complaint in a serious, sensitive and timely manner
- inform the PCO Team leader that a complaint has been made
- act as a support person and advocate for the complainant(s)
- document the issues, the procedures followed and any resolution
- maintain strict confidentiality concerning the issues and parties involved

Under no circumstances should the PCO contact the respondent(s) without the clear consent of the complainant: if this consent is not given in writing, the PCO must record the date, time and manner in which consent was given (e.g. by phone call, during a conversation).

The PCO should seek to proceed with informal conciliation of the complaint, sensitive to the possibility of a complainant feeling ‘rushed’ or their complaint being ‘hushed’.

2.2.2 PCO responsibilities

The PCO, over the course of contact with the complainant, must

- with the knowledge and consent of the complainant, advise the Registrar that a complaint has been received, but must **not** advise of **any** details at this stage. The fewer people who know of a complaint the better, because even the knowledge that it exists may do harm
- document the contact, and the course of the procedures, in a **confidential** report diary, including the date and time of contact, outline of the situation, and the parties involved
- collect and hold any evidence of harassment or discrimination
- prepare an agreed course of action with the complainant

It is anticipated that within the MCD the majority of issues would be satisfactorily resolved at the initial stage. If there is need to proceed to a further level of conciliation, the PCO remains involved to support and act as advocate for the complainant.

2.2.3 PCO Team Leader responsibilities

When the PCO is informed that a complaint has been made, she or he must keep in contact with the PCO concerned, both to act as a support person for the PCO and to monitor the progress of the complaint.

When a complaint is unable to be resolved at the initial stage, the PCO must

- be informed of the name of the complainant and respondent
- inform the respondent, as soon as possible, that a complaint has been made
- appoint another PCO, possibly from another RTI, to be the advocate for the respondent
- remain the point of communication for matters concerning the complaint

The PCO is then required to take the issue to

- the MCD Registrar, or
- the Equal Opportunity Commission

If necessary, and if requested by the complainant, the PCO Team leader should contact the Police or other civil authority, and/or assist the complainant to contact the Equal Opportunity Commission.

2.3 Formal conciliation

If issues are unable to be resolved internally, an external mediator must be introduced

- if the complaint relates to a particular RTI, the external mediator is nominated by the PCO and must be a person acceptable to both complainant and respondent; the

mediator may be a senior staff member of another RTI, a member of the Council, or the Registrar

- if the complaint does not relate to a particular RTI, the Registrar is the mediator

The mediator must explore all possible means of conciliation. In doing so, she or he is empowered to speak in confidence with any person associated with the MCD. The mediator must ensure that written records of all proceedings and contacts including dates and times are maintained.

When resolution is reached, it must be in writing, signed by all parties involved, and then securely lodged with the MCD Registrar. The contents remain strictly confidential except when stated otherwise in the resolution.

D3 Current Peer Contact Officers

The following people are available to discuss any issue of harassment or discrimination. Each will provide advice and information on a confidential basis, and if necessary assist a complainant in dealing with any issues which the latter may wish to have resolved.

Peer Contact Officers (PCOs) for 2009 are as follows:

RTI	Name of contact person	Tel. No.
CCTC:	The Registrar	9790 1000
CTC:	Rod Doyle, Lisa Gerber, Jamie Floyd	9412 3333
Whitley:	Ross Langmead, Keith Dyer	9340 8100
UFT:	Brenda Holt	9348 7520
	Jamie Calder sj	9347 5385
	Jenny Byrnes	9340 8830
YTU:	Catherine McCahill	9890 3771
SATC:	Major Kalie Webb	93470299
ICSPF:	Michael Smith	9341 5800
	Peter Bentley	9885 0277
	External - Helen Delaney	9375 1897
MCD	The Registrar	9853 3177
The MCD external mediator is		
HREC Liaison Officer, Rosalie Hudson		9484 9598

D3 Grievance Procedures Summary Table

Stage / action	Lodged with	Complaint	Timeline	Response	Fee?	Others involved
Academic grievance:			Acknowledgement			
U/G Enrolment	MCD Registrar	5 working days	5 working days	5 working days	No	
Probationary enrolment	MCD Registrar	5 working days	5 working days	10 working days	No	
P/G –graduate standing	MCD Registrar	5 working days	5 working days	5 working days	No	
P/G- enrolment	MCD Registrar	5 working days	5 working days	10 working days	No	
Coursework- grading	C’work co-ordinator	5 working days	5 working days	5 working days	No	
Coursework- Appeal	Chair of Examiners	5 working days	5 working days	10 working days	No	
Research Students:						
-refusal to continue	MCD Registrar	5 working days	5 working days	10 working days	No	Supervisor
-Doctoral upgrade	MCD Registrar	10 working days	5 working days	10 working days	No	Supervisor
-supervision	Director of Research	N/A	5 working days	One month	No	Academic Board
-thesis examination	MCD Registrar	10 working days	5 working days	20 working days	No	Chair of Examiners
Refusal to make award	MCD Dean	10 working days	5 working days	10 working days	No	MCD President
Non-academic grievance						
Initial complaint, formal process	Grievance Contact person	10 working days	5 working days	10 working days	No	MCD Dean [President] decision to Council- 5 WD
FEEHELP - Initial appeal	MCD Executive Assistant	12 months	10 working days	10 working days	No	
- review	MCD Registrar	28 days	5 working days	45 working days	No	
Review of Decision	<i>(Grievance Panel)</i>					
Formal complaint	MCD Registrar	10 working days	5 working days	20 working days		Panel members
External Review	External reviewer	10 working days		30 days		MCD Registrar (10 WD to act)

In accord with the Australian Government *National Code 2007* the timetable for international students in relation to grievances may vary to that noted above. Jan09